

MAY 23 2008

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 08-03
DATE ACTIVATED: 2-26-2008
EXPIRATION OF SOL: 7-30-2008 –
1-31-2010

SOURCE: INTERNALLY GENERATED

RESPONDENT: American Resort Development Association
Resort Owners Coalition PAC and Sandra
Yartin DePoy, in her official capacity as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(b)
2 U.S.C. § 441b
2 U.S.C. § 441e
11 C.F.R. § 114.5(a)

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter was generated by a Commission audit pursuant to 2 U.S.C. § 438(b) of
American Resort Development Association Resort Owners Coalition PAC ("the Committee")
covering the period of January 1, 2003 through December 31, 2004. The Audit Division
forwarded the Final Audit Report to the Commission on January 28, 2008,¹ and on February 12,
2008 the Audit Division referred Findings 1, 2, and 3 of the Report to the Office of the General

¹ The Final Audit Report has been forwarded to the Commission and is currently awaiting approval.

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Counsel for enforcement. Based on the information set forth in the Final Audit Report, we recommend that the Commission make reason to believe findings as follows:

- The Committee violated 2 U.S.C. § 434(b) by misstating its financial activity for 2003 and 2004. *See* Finding 1, Attachment 1 at 7-10.
- The Committee violated 2 U.S.C. § 441b(a) by knowingly accepting contributions prohibited by 2 U.S.C. § 441b. *See* Finding 2, Attachment 1 at 10-12.
- The Committee violated 2 U.S.C. § 441e(a) by knowingly accepting contributions prohibited by 2 U.S.C. § 441e. *See* Finding 2, Attachment 1 at 10-12.
- The Committee violated 11 C.F.R. § 104.5(a)(5) by failing to include the information required by 2 U.S.C. § 441b(b)(3)(B)-(C) and 11 C.F.R. § 104.5(a)(2)-(4) on the Committee's solicitations. *See* Finding 3, Attachment 1 at 12-14.

II. CONCILIATION AND CIVIL PENALTY

We recommend that the Commission enter into pre-probable cause conciliation with the Committee.

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First General Counsel's Report

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III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer, violated 2 U.S.C. § 434(b).
3. Find reason to believe that American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer, violated 2 U.S.C. § 441b(a).
4. Find reason to believe that American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer, violated 2 U.S.C. § 441e(a).
5. Find reason to believe that American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer, violated 2 U.S.C. § 441b(b)(3)(B)-(C) and 11 C.F.R. § 114.5(a)(2)-(4).
6. Approve the attached Factual and Legal Analysis.
7. Enter into conciliation with American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer, prior to a finding of probable cause to believe.
- 8.

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First General Counsel's Report

9. Approve the appropriate letters.

Thomasenia P. Duncan
General Counsel


Date

5-22-08

BY:



Kathleen M. Guith
Acting Deputy Associate General Counsel
for Enforcement


Julie K. McConnell
Assistant General Counsel
William A. Powers
Attorney

Attachments:

1. Proposed Final Audit Report of the Audit Division on American Resort Development Association Resort Owners Coalition PAC
2. Sample Solicitations
3. Factual and Legal Analysis
- 4.



bluegreen^{COPY}

VACATION CLUB

Dear Bluegreen Vacation Club Owner:

Enclosed is the billing statement for your 2004 Maintenance Fee. Your 2004 billing covers the projected operational cost for the following fiscal year: November, 2003 to October, 2004. Please note that your maintenance fee billing is broken down as follows: The Maintenance Fee is used to pay for day-to-day costs such as administration, pool care, landscaping, etc. The Real Estate Tax represents your portion of the total tax charged to the Association. The ARDA-ROC-PAC Fee is voluntary and goes to protect your ownership rights on an industry-wide level.

Your Property Management team is an extremely cost-conscious group, making every effort to control fees associated with your vacation ownership. Sometimes, however, there are rising costs beyond their control, such as property taxes, utilities, grounds and housekeeping, which must be factored into the overall maintenance fee. Be assured the fee increase reflected in this statement will translate into the ongoing excellence of your vacation experience.

Please be sure to read the Assessment Billing and Collection Policy that outlines the late payment penalties. If you have any questions regarding your maintenance fees, please contact our Maintenance Fee Collections Department at 800-458-2682 option 5, option 1 Monday through Friday 8:00 a.m. 'til 6:00 p.m. eastern time. We appreciate your patience, as call volume may be heavy at times during our billing season. As an alternative, correspondence may be sent via e-mail to maintfees@bgcorp.com.

VOLUNTARY ARDA-ROC-PAC CONTRIBUTION

ARDA is a 30-year-old Washington, D.C.-based industry trade association representing the resort industry through lobbying, consumer advocacy, and a unique organization called ARDA-ROC Political Action Committee (ARDA-ROC-PAC).

The ARDA-ROC-PAC concept is simple – owners across the country join together to gain collectively what they are unable to achieve individually. ARDA-ROC-PAC membership is comprised of over 330,000 vacation resort owners. The organization is funded solely through voluntary contributions. The funds are collected by your Association in conjunction with your annual maintenance fee assessment and sent to ARDA-ROC-PAC headquarters in Washington, D.C. ARDA-ROC-PAC revenues are dedicated to engaging attorneys and lobbyists to represent owners of vacation resorts in city halls, state legislatures and in our nation's capital.

Year after year, federal, state and local lawmakers search for various ways to raise revenue by taxing owners at resort properties. For example, in the fight against the IRS attempting to tax capital reserves, ARDA-ROC-PAC spent nearly \$700,000 over several years to save timeshare owners and their associations some \$35 million.

Funds contributed to ARDA-ROC-PAC possess maximum flexibility. They can be used to engage attorneys and lobbyists to pay for research to defend owners' legislative positions, and contribute to elected officials at the state and federal levels who are supportive of owners' legislative positions.

Please join your fellow owners by contributing only \$3.00 a year (25 cents a month). Your support will enable ARDA-ROC-PAC to protect your interests as a vacation resort owner.

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